

## FINDING OF NO SIGNIFICANT IMPACT AND NOTICE

### **Proposed Kickapoo Tribe of Oklahoma Casino Expansion Project, Lincoln County, Oklahoma**

**AGENCY:** National Indian Gaming Commission

**ACTION:** Finding of No Significant Impact

**SUMMARY:**

The Kickapoo Tribe of Oklahoma (Kickapoo Tribe) submitted a request to the National Indian Gaming Commission (NIGC) for the approval of a management agreement between the Kickapoo and Ellis Gaming Oklahoma Management, LLC (Ellis), for the development, construction, and operation of an expanded, existing casino complex.

The Kickapoo Tribe currently owns and operates a tribal government gaming casino (Kickapoo Casino) located on the south side of U.S. Highway 62, approximately 1/4-mile northeast of the intersection with State Highway 102. This casino lies within a portion of an existing 609-acre tract of land owned by the United States, and held in Trust for the benefit of the Kickapoo Tribe and located in Section 22, Township 12 North, Range 2 East, in Lincoln County, Oklahoma.

The Kickapoo Tribe has plans to conduct an expansion/construction project that will consist of an approximate 12,000 square foot net expansion of the gaming floor, expansion and remodel of the existing facilities, and consolidation of modular buildings outside of the existing facility through the addition of a 33,000 square foot tensile structure.

An Environmental Assessment (EA), dated February 2006, was prepared for the NIGC's decision regarding the approval of a management agreement to meet the requirements of the National Environmental Policy Act of 1969, as amended (NEPA) (42 USC 4321 et seq.). The Draft EA was published and circulated for public comment for 30 days. No public comments were received during the comment period. The Final EA has been revised to include this information.

The NIGC is the federal agency charged with regulating gaming on Indian lands, as mandated by the Indian Gaming Regulatory Act (IGRA). As part of its regulatory authority under IGRA, the NIGC reviews and approves all management contracts between Indian tribes and outside management contractors. If the NIGC decides to approve the Kickapoo Tribe's Management Agreement with Ellis under IGRA, such a decision would be a federal action subject to NEPA. Based on the size and scope of the proposed project, the Final EA and this Finding of No Significant Impact (FONSI) fulfill the requirements of NEPA as set out in the Council on Environmental Quality Regulations for Implementing NEPA (40 CFR Parts 1500-1508) and the NIGC's NEPA Procedures. The NIGC is the lead agency for NEPA compliance.

**FOR FURTHER INFORMATION CONTACT:**

National Indian Gaming Commission  
NEPA Compliance Officer  
1441 L Street NW, Suite 9100  
Washington, DC 20005  
(202) 632-7003

**PUBLIC AVAILABILITY:**

This FONSI, the Final EA, and additional information on which the FONSI is based will be available to the public at the following locations for a period of 30 days:

McLoud Public Library  
133 N. Main  
McLoud, Oklahoma 74851

Chandler Public Library  
1021 S. Manuel  
Chandler, Oklahoma 74834

National Indian Gaming Commission  
1441 L Street NW, Suite 9100  
Washington, DC 20005

**BACKGROUND:**

Gaming is a means for the Kickapoo Tribe to further promote tribal economic development, self sufficiency and strong tribal government. This opportunity is afforded the Tribe under the IGRA (25 USC 2701 et seq.).

**DESCRIPTION OF THE PROPOSED PROJECT:**

The existing casino structure is an approximate 16,000 square foot structure, which opened in May of 2001. The Kickapoo Tribe has plans to conduct an expansion/ construction project that will consist of an approximate 12,000 square foot net expansion of the gaming floor, expansion and remodel of the existing facilities, and consolidation of modular buildings outside of the existing facility through the addition of a 33,000 square foot tensile structure.

Specifically, according to the Tribe's Business Plan, proposed Phase I project activities will include:

- Addition of a 33,000 square foot tent structure on the south side of the existing facility, using the Multimedia trailer as the connection point. This area currently consists of an asphalted parking area, a supplemental parking area currently covered in gravel, and small areas currently covered in native soils and grass.
- Asphalted all possible parking areas.

- Creating a new entrance to the housing area that is directly off of Highway 62.
- Graveling additional areas to provide “overflow” customer and employee parking.

Phase II activities will include:

- Removing the current modular buildings in a process that will not interrupt customer gaming.
- Building a “walkway” between the tent structure and the main casino building.

Any mitigation measures that need to be implemented, including expanded potable water facilities and wastewater treatment services, will be included as part of the proposed project.

The Kickapoo Tribe’s goal is to expand the tribe’s economic base by increasing it’s gaming and entertainment services. The expanded casino would provide the Tribe with an increased revenue base. Gaming revenues would be used to fund governmental programs and decrease the Tribe’s dependence on Federal and State funding. Gaming revenues would also allow the Tribe to upgrade equipment, hire additional staff and expand environmental, health and safety programs. Gaming revenues would also provide employment opportunities for Tribal members and many local non-tribal residents. Operation of the casino would require the purchase of goods and services, increasing opportunity for local businesses, and increase taxes and revenues that would stimulate the local economy.

The proposed project will have a beneficial economic impact for the Kickapoo Tribe. Benefits to the Tribe and its individual members will result from employment opportunities at the expanded facility and an improved quantity and quality of social services offered by the government of the Kickapoo Tribe. The Kickapoo Tribe plans to use gaming revenues to develop and invest in long-term projects which will provide alternative sources of sustained revenues for years to come. The development of revenue sources will help ensure economic success in the event of any potential decrease in gaming revenues.

#### **PUBLIC REVIEW AND COMMENT**

See EA, Section 4.0, “Agency Involvement,” and Appendix B, for a list of agencies and persons contacted. Preparation of the EA included consultation with the U.S. Army Corps Of Engineers (USACE); U.S. Fish and Wildlife Service (USFWS); U.S. Department of Agriculture; American Flood Research, Inc., Federal Emergency Management Agency; Oklahoma Archaeological Survey (OAS); Oklahoma Department of Environmental Quality (ODEQ); Oklahoma Water Resources Board (OWRB); Oklahoma Department of Transportation (ODOT); Oklahoma Department of Wildlife Conservation (ODWC); Oklahoma State Historic Preservation Office (SHPO); Oklahoma Natural Heritage Commission; Wichita and Affiliated Tribes.

A Public Notice for review of the Draft EA was published on February 15, 2006. The public comment period ended on March 16, 2006. No comments were received during this period.

### **SUMMARY OF MITIGATION ISSUES**

The NIGC hereby adopts the mitigation measures described in Section 8.0 of the EA. The following is a summary of those measures.

- All proposed construction activities and future facility operating activities will comply with any applicable regulatory requirements, unless otherwise exempt. To reduce temporary impacts to air quality from ground-disturbing construction activities, routine water spraying/sprinkling for dust suppression and covering/vegetating soil stockpiles exposed for long periods of time will be undertaken when deemed necessary.
- As discussed in the Drainage Study Report, erosion during and after construction of the proposed project would be maintained to acceptable levels by implementation of a Storm Water Pollution Prevention Plan (SWPPP), providing adequate on-site detention to mitigate the increase in runoff and maintaining existing swales which provide conveyance for upstream drainage areas. Current drainage patterns will be maintained under proposed conditions. Disturbed areas during construction will drain into a proposed detention pond, which will also serve as a sedimentation basin for pollution and erosion prevention. By utilizing this detention pond, proposed impervious cover additions will not increase downstream water surface elevations nor increase downstream erosion. Further, best management practices (BMPs) will be implemented during and after construction until roads and parking areas are paved.
- As discussed in the Water Study Report, additional potable water storage is required for the proposed project, coupled with booster pumping facilities. It is proposed to install an additional 160 foot in depth water supply well, construct a 250,000 gallon ground storage tank and a booster pumping facility capable of supplying up to 1500 gallons per minute of domestic flows, with an installed chlorine disinfectant system. To evaluate any cumulative impact of the proposed water improvements, a Well Monitoring Program has been proposed. The proposed program would consist of conducting monthly static water level measurements of all supply wells and recording flow meter consumption rates. These measurements would be used to evaluate the seasonal trends and effects of the proposed water improvements and well field over time. If production from the proposed well source is not sufficient or the aquifer is found to be depleted over time, a second well would be drilled on Kickapoo land, or a well would be permitted and installed on offsite property ( $\pm$  5-6 miles away from the Site), where a known adequate aquifer exists.
- The Wastewater Report set forth in the EA concluded that the existing wastewater treatment system does not have sufficient capacity to treat the wastewater flow

from the proposed Kickapoo Casino expansion, either from a hydraulic or organic standpoint. Therefore, it is proposed that a new 50,000 gallon per day wastewater treatment facility be constructed using an activated sludge process to treat the high organic wastewater loads anticipated from the casino expansion project.

- A Traffic Impact Study conducted for the proposed project concluded that the traffic projected to be generated by the expansion of the casino is not expected to be detrimental to the operational characteristics of the existing intersections. The intersection of U.S. Highway 62 and State Highway 102, and the intersections of U.S. Highway 62 and the driveways to the development are expected to operate adequately at acceptable levels of service. No capacity problems are expected due to the increase in traffic, and thus no mitigation measures pertaining to traffic are proposed at the present time.
- If any currently unknown hazardous sites or areas of historical or archeological significance are found during implementation of the proposed project, all activities in the vicinity of the site will be halted and all applicable tribal, federal, and state agencies will be contacted. Investigation and/or cleanup of any found sites will be coordinated with all applicable tribal, federal, and state agencies.

## **FINDINGS**

The NIGC makes the following findings which support this FONSI.

1. Federal and state agencies were involved in identifying environmental issues related to the Proposed Action. The EA contains a list of agencies, tribal governments and individuals that were contacted. See EA, Section 4.0, "Agency Involvement," and Appendix B.
2. Alternative courses of action were developed in response to environmental concerns and issues related to the proposed action. See EA, Section 6.0, "Resources Evaluated and Environmental Consequences of Proposed Action and Alternatives." The EA discloses the environmental consequences of the proposed action and no-action alternative. See EA, Section 6.0. The EA assesses compliance of the alternatives with applicable environmental mandates, and includes information that supports a finding of no significant impact. See EA, Section 6.0.
3. The EA describes mitigation measures that will be implemented to protect the human environment. The measures are summarized above. Also see the discussion of mitigation measures for each resource area in Section 6.0 of the EA, "Resources Evaluated and Environmental Consequences of Proposed Action and Alternatives." The EA describes permitting processes and other enforceable mechanisms that are in place to ensure that the Kickapoo Tribe completes mitigation measures to protect key resources. See EA, Sections 6.0, 7.0 and 8.0.
4. The EA finds that the proposed action will not jeopardize federally listed threatened or endangered species because such species are not known to occur on the

proposed site. Nor is the site located in an officially designated wilderness area or officially designated wildlife preserve. The U. S. Fish and Wildlife Service (USFW) sent a "no objection finding" which indicates that the two threatened species listed by the Oklahoma Department of Wildlife Conservation (Bald Eagle and Piping Plover) are not known to occur within project boundaries. See EA, Section 6.5.2, "Threatened and Endangered Species and Critical Habitat Review," and Appendix D. Further, the proposed action will not result in the conversion of any Prime or Unique Farmlands. See EA, Section 6.5.3, "Prime and Unique Farmlands."

5. The EA finds that the proposed action is in compliance with the National Historic Preservation Act, and that no properties eligible for listing on the National Register of Historic Places will be adversely affected under the proposed action. See EA, Section 6.6, "Cultural and Historical Resources."

6. The EA finds that the impacts on public health, safety and infrastructure will not be significant. The EA describes that the traffic impacts will be within the design capacity of the roads and intersections. See EA, Section 7.3, "Transportation and Traffic." The EA finds that the proposed action is in compliance with the Clean Air Act and the National Ambient Air Quality Standards (NAAQS). See EA, Section 6.1, "Regional Air Quality." The EA also finds that the proposed action will have no significant impact with respect to noise issues. See EA, Section 6.2, "Noise." Finally, the EA finds that utilities and services, law enforcement and fire protection will not be significantly impacted. See EA, Section 7.2, "Infrastructure."

7. The EA analyzes the cumulative impacts for the proposed action and finds that they will not be significant. See EA, Section 8.0, "Conclusions," and Table 5.

8. The EA finds that the proposed action will improve the economic and social conditions of the Kickapoo Tribe by meeting the purpose and need for the action identified in the EA, Section 1.0, "Purpose and Need." See EA, Section 7.1, "Environmental Justice." The EA also finds that the proposed action will benefit the local economy by creating jobs. The EA finds that the proposed action is in compliance with Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations) because the proposed action will not cause disproportionately high adverse impacts to minority or low-income populations. See EA, Section 7.1, "Environmental Justice."

The NIGC has independently evaluated the information and analysis in the EA.

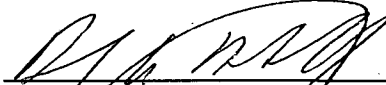
## **DETERMINATIONS**

The February 2006 EA provides a sound basis for evaluating the environmental impacts of the Kickapoo Tribe's operation of a gaming facility on the proposed site.

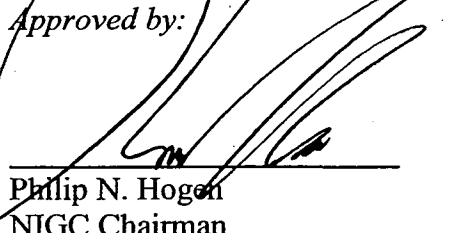
**RECOMMENDATIONS/APPROVALS**

After careful and thorough consideration of the facts contained herein, the undersigned finds that the proposed federal action is consistent with existing national environmental policies and objectives as set forth in Section 101 of the NEPA and other applicable environmental requirements and will not significantly affect the quality of the human environment or otherwise include any condition requiring consultation pursuant to Section 102(2)(c) of NEPA.

*Environmental Assessment and FONSI reviewed and recommended by:*

  
\_\_\_\_\_  
Bradley A. Mehaffy  
NIGC NEPA Compliance Officer

3/24/06  
Date

Approved by:  
  
\_\_\_\_\_  
Philip N. Hogan  
NIGC Chairman

3/30/06  
Date